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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re C.C., a Person Coming  
Under the Juvenile Court Law.

2d Juv. No. B269294  
(Super. Ct. No. J069598)  
(Ventura County)

VENTURA COUNTY HUMAN  
SERVICES AGENCY,

Plaintiff and Respondent,

v.

A.C.,

Defendant and Appellant.

A.C. (Mother) appeals the juvenile court's order denying her petition to reinstate reunification services with her daughter, C.C. (Welf. & Inst. Code, § 388, subd. (a)).<sup>1</sup> She

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<sup>1</sup> All statutory references are to the Welfare and Institutions Code.

contends the court abused its discretion when it concluded that modification would not advance C.C.'s best interests. We affirm.

### STATEMENT OF FACTS

Ventura County Human Services Agency (HSA) filed a dependency petition in September 2013 alleging, among other things, that C.C.'s parents abused drugs and that her father verbally abused her, calling her names like "bitch" and "tramp."<sup>2</sup> HSA removed then eight-year-old C.C. from her parents' custody in October 2013 after both parents tested positive for marijuana and Mother tested positive for methamphetamine. The court offered reunification services, including supervised visitation, random drug testing, and attendance at Alcoholics/Narcotics Anonymous meetings.

Prior to removal from her parents' care, C.C. exhibited signs of anxiety, such as nervous tics, stuttering, and carrying her belongings everywhere in a rolling backpack. She had recurrent nightmares and was unable to sleep with the lights off. She refused to be separated from her toy dinosaurs. She also had symptoms of ADHD and performed below her grade level in school. After being placed in foster care, the anxiety symptoms decreased, and C.C. improved in her school performance and interaction with her peers.

Mother's drug tests after October 2013 were negative. Her program counselor reported that she began her drug program "like a firecracker," but by April 2014 she had absences and did not have a sponsor. Father had multiple positive drug tests, and provided one false urine sample. He also did not have a sponsor as of April 2014.

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<sup>2</sup> Father is not a party to this appeal.

The court ordered reunification services continued in April 2014. That month, C.C.'s parents separated. Mother was allowed unsupervised visitation. Father continued to have supervised visitation, with no unsupervised contact. He continued to have positive drug tests.

In June 2014, C.C. began an extended 60-day visit with Mother. Father was living in an apartment above Mother. Mother did not disclose this and she gave him unsupervised contact with C.C. She also left C.C. with C.C.'s brother and his friend, although the social worker asked her not to do so. The brother exposed C.C. to sexually explicit videos. The social worker ended the 60-day visit early.

C.C.'s facial tics and stuttering returned during the extended visit, and she resumed keeping her belongings with her in a rolling backpack. These symptoms of anxiety decreased when she was returned to foster care.

By October 2014, Mother and Father were back together and homeless. Mother committed a petty theft for which she served a 10-day jail sentence.

The court terminated reunification services in November 2014. It set a section 366.26 hearing to determine a permanent plan for C.C., which it continued multiple times.

Mother filed a section 388 petition to reinstate reunification services in September 2015. Mother said that she and Father had moved into a new home and both had regular jobs. She said that she had been sober since October 2013, Father had been sober since June 2014, and they both regularly attended Alcoholics/Narcotics Anonymous meetings and had sponsors.

Before the hearing on the petition, Father was cited for possession of marijuana. At the hearing, Mother testified she would ask Father to move out of the house if the court granted the petition.

The court denied the petition on grounds that reinstatement was not in C.C.'s best interests. The court noted that in many respects, Mother demonstrated a change in circumstances. However, the court stated that reinstating reunification would be "more of a gamble than allowing [C.C.] to see if this current foster home will provide stability. And that's because we know the history of mom. . . . [That] [s]he didn't want to follow the rules." The court adopted HSA's recommendation for a plan of long-term foster care.

#### DISCUSSION

The juvenile court may modify a prior order if the moving party demonstrates by a preponderance of evidence (1) that there is new evidence or changed circumstances, (2) that make a change of placement in the best interests of the child. (§ 388, subd. (a)(1); *In re Stephanie M.* (1994) 7 Cal.4th 295, 317.) This determination is committed to the sound discretion of the juvenile court and we will not disturb it unless abuse is clearly established; that is, unless the trial court exceeded the bounds of reason. (*Id.* at pp. 318-319.) When two or more inferences can reasonably be deduced from the facts, we have no authority to substitute our decision for that of the juvenile court. (*Id.* at p. 319.) "After the termination of reunification services, the parents' interest in the care, custody and companionship of the child are no longer paramount." (*Id.* at p. 317.) Instead, the focus shifts to the child's need for permanency and stability, and "there is a rebuttable presumption that continued foster care is in

the best interests of the child.” (*Ibid.*) “The denial of a section 388 motion rarely merits reversal as an abuse of discretion.” (*In re Amber M.* (2002) 103 Cal.App.4th 681, 685-686.)

The juvenile court did not abuse its discretion when it determined that Mother’s proposed change was not in C.C.’s best interest. C.C. progressed in foster care and regressed in Mother’s care. C.C.’s anxiety decreased when C.C. was removed from her Mother’s care and placed in foster care. That anxiety returned during her extended visit with Mother in 2014, and then decreased again shortly after she was returned to foster care. The trial court reasonably concluded that foster care provides stability for C.C., and reinstating reunification services would not advance her need for permanency and stability.

*In re Kimberly F.* (1997) 56 Cal.App.4th 519, upon which Mother relies, does not compel a different result. The *Kimberly* court articulated three factors to consider when determining whether modification is the child’s best interest: (1) the seriousness of the problem that led to the dependency proceeding; (2) the nature of the changed circumstances, the difficulty of making the change, and the reason the change was not made sooner; and (3) the relative strength of the bonds between the child and the parent and/or caretakers. (*Id.* at pp. 530-531; but see *In re J.C.* (2014) 226 Cal.App.4th 503, 527 criticizing *Kimberly* for not emphasizing permanency and stability.) These factors weigh against modification. The drug use and verbal abuse that led to the dependency proceeding were serious problems. Mother’s changed circumstances still included Father, despite his multiple positive drug tests and a drug-related arrest, and her circumstances did not change sooner because she did not cooperate with reunification efforts. Mother

and C.C. had a bond, but C.C.'s therapist said she "never elaborated or didn't really want to talk about" their visits; whereas, C.C. was "very excited," and "so happy" to be in the foster home that "she has a hard time sitting in her seat . . . wanting" to talk about the foster family.

Mother contends the alternative to reunification, long-term foster care, "is not necessarily a stable placement." She suggests conjoint therapy, with the goal of mending the parent-child relationship and possible permanent placement with Mother. However, as Mother acknowledges, a prior attempt to reunify failed, the relationship is "suffused with fear and uncertainty," and C.C. "feared returning home to live with [Mother]." Under these circumstances, the juvenile court did not exceed the bounds of reason when it decided that long-term foster care would better promote C.C.'s need for permanency and stability.

#### DISPOSITION

The order is affirmed.

NOT TO BE PUBLISHED.

TANGEMAN, J.

We concur:

GILBERT, P. J.

YEGAN, J.

Tari L. Cody, Judge

Superior Court County of Ventura

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Lori Siegel, under appointment by the Court of Appeal, for  
Defendant and Appellant.

Leroy Smith, County Counsel, and Joseph J. Randazzo, Assistant  
County Counsel, for Plaintiff and Respondent.